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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/086,183	02/26/2002	Christer O. Andreasson	263/292	8214

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EXAMINER	
LIEU, JULIE BICHNGOC	
ART UNIT	**PAPER NUMBER**
2636	

DATE MAILED: 01/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/086,183	ANDREASSON ET AL.	
	Examiner	Art Unit	
	Julie Lieu	2636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 September 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10 and 30-70* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10 and 30-70* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to Applicant's amendment filed September 13, 2004. Claims 11-29 have been canceled. New claims 30-70 have been added.

2. The indication for allowance of claims 1-10, 18, 20, 26, and 29 is withdrawn. Rejection based on newly found arts follow. The delay of the application of new arts is regretted.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 55-59 are rejected under 35 U.S.C. 102(e) as being anticipated by Martucci et al. (US 2004/0104271)

Claim 55:

Martucci discloses a method for monitoring administration of a medical product to a patient, the medical product comprising a Radio Frequency identification (RFID) tag for storing data related to the medical product, the method comprising:

a. reading the RFID tag 28 associated with the medical product to obtain the data

stored in the RFID tag when the medical product passes through an entrance to the patient's room;

b. accessing data associated with a patient, and verifying that the patient is intended to receive the medical product by comparing the data obtained from the RFID tag with the data associated with the patient.

See abstract.

Claim 56:

The verifying step disclosed in Martucci further comprises comparing a product identifier from the data obtained from the RFID tag with a product identifier from the data associated with the patient.

Claim 57:

In Martucci, the product identifier comprises at least one of a product name, a dosage, and a product serial number.

Claim 58:

The method in Martucci further comprises displaying a mismatch notification when there is a mismatch between the data obtained from the RFID tag and the data associated with the patient.

Claim 59:

Martucci's method further comprises activating an output device when there is a mismatch between the data obtained from the RFID tag and the data associated with the patient.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 1-10, 30-38, and 62-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martucci et al. (US 2004/0104271) in view of Hickle et al. (US Patent No. 2002/0188259).

Claim 1:

Martucci et al. discloses an apparatus for monitoring administration of medical products to a patient, each of the medical products comprising a RFID tag 124a for storing data related to the respective medical product, the apparatus comprising:

a. A reader 36 for reading RFID tags associated with a plurality of medical products placed in close proximity to the reader to obtain the data stored in the RFID tags;

b. A processor represented by 22 coupled to the reader for processing data obtained from the RFID tags to identify the medical products.

The reference fails to disclose substantially simultaneously reading the RFID tags. However, this feature is well known in the art as taught in Hickle et al.. (See para. [0036]). In light of this teaching, it would have been obvious to a skilled artisan to readily recognized using a tag reader with ability to read multiple tags substantially simultaneously as in Hickle in the system of Bui's because it would be advantageous and desirable to read several tags at the same time.

Claim 2:

The system in Martucci has a memory coupled to the processor 22 for storing data associated with patient. See [0032].

Claim 3:

The processor in Martucci compares the product identifiers from the data obtain from the RFID tags with product identifiers from the data associated with the patient. See abstract and [0032]

Claim 4:

The product identifiers used in Martucci is one of the product names and dosages.

Claim 5:

A display 40 is coupled to the processor (see front page fig. 2 in Martucci)

Claim 6:

Martucci discloses an output device coupled to the processor, and wherein the processor activates the output device when the processor detects a mismatch between the data obtained from the RFID tags and the data associated with the patient. See [0035].

Claim 7:

The output device in Martucci's comprises at least one of a light indicator or an audio indicator.

Claim 8:

It is not clear that the reader 36 is configured to red the RFID tags associated with the medical products when the medical products pass through an entrance to the patient's room. However, it would have been obvious to one skilled in the art to read the RFID whenever desirable because the result thereby would not be modified.

Claims 9 and 10:

In the combined system of Martucci and Hickle, it would have been obvious to one skilled in the art to use a read pad to provide a surface for placing the medical products because the use of a read pad would allow the products to be read simultaneously more easily though not necessary.

Claim 30:

Martucci discloses an apparatus thus a method for identifying a plurality of medical products, each of the medical products comprising a for storing data related to the respective medical product, the method comprising:

a. placing the plurality of medical products in close proximity to a RF antenna substantially simultaneously reading Radio Frequency identification (RFID) tags associated with the medical products using the RF antenna to obtain the data stored in the RFID tags; and

b. identifying each of the plurality of medical products based upon the data obtained from the RFID tags.

The reference fails to disclose substantially simultaneously reading the RFID tags. However, this feature is well known in the art as taught in Hickle et al.. (See para. [0036]). In light of this teaching, it would have been obvious to a skilled artisan to readily recognized using a tag reader with ability to read multiple tags substantially simultaneously as in Hickle in the system of Martucci's because it would be advantageous and desirable to read several tags at the same time.

Claim 31:

The method in Martucci further comprises recording administration of the identified medical products to a patient.

Claim 32:

The identifying step in Martucci comprises accessing a database to obtain data associated with the medical products based upon the data obtained from the RFID tags. See summary of invention.

Claim 33:

It is not clear that the data obtained from the RFID in Martucci includes location identifiers. However, it would have been obvious to one skilled in the art to configure the

system to relate the product's location with the database to retrieve the product's information as desired. This feature would not be considered as an inventive step because it only presents a choice in design.

Claim 34:

The step in Martucci includes verifying that the patient is intended to receive the plurality of medical products by comparing the data obtained from the RFID tags with the data associated with the patient. See [0035].

Claim 35:

The Martucci system includes a patient RFID tag 24 for uniquely identifying a patient intended to receive a medical product.

Claims 36 and 37:

It is not clear that the reader 36 is configured to read the RFID tags associated with the medical products when the medical products pass through a doorway, which is an entrance to the patient's room. However, it would have been obvious to one skilled in the art to read the RFID whenever desirable because the result thereby would not be modified.

Claim 38:

The doorway in Martucci appears to be a door to a patient's room not a healthcare pharmacy. However, one skilled in the art would have readily recognized that the system in Martucci and Hickle could be used in a pharmacy. Further, the use of the system in Martucci and Hickle in a pharmacy would alter the function of the device, thus, this feature does not present a novel or inventive step.

Claim 62:

The reference fails to disclose substantially simultaneously reading the RFID tags. However, this feature is well known in the art as taught in Hickle et al.. (See para. [0036]). In light of this teaching, it would have been obvious to a skilled artisan to readily recognized using a tag reader with ability to read multiple tags substantially simultaneously as in Hickle in the system of Martucci's because it would be advantageous and desirable to read several tags at the same time.

Claim 63:

The rejection of claim 63 recites the same rejection of claim 1, except it is a method claim.

Claims 64-67:

The rejection of claim 64-67 recites the same rejection of claims 3-6, except they are method claims.

Claim 68:

The rejection of claim 68 recites the same rejection of 8, except it is method claim.

Claim 69:

Martucci's method comprises reading the RFID tag associated with the medical product when the medical product is placed in close proximity to a reader. It is not clearly stated that the reader in Martucci is a read pad; however, it would have been obvious to one skilled in the art to use a read pad in Martucci because it is functionally equivalent to the reader 36.

Claim 70:

It is not clear whether Martucci records administration of the medical product to the patient when there is a match between the data obtained from the RFID tags and the data

associated with the patient. However, it would have been obvious to one skilled in the art to incorporate the idea into the Martucci system because it would keep a record of the administering of the medical product to the particular patient for future purposes.

7. Claims 60-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martucci et al. (US 2004/0104271).

Claim 60:

Martucci's method comprises reading the RFID tag associated with the medical product when the medical product is placed in close proximity to a reader. It is not clearly stated that the reader in Martucci is a read pad; however, it would have been obvious to one skilled in the art to use a read pad in Martucci because it is functionally equivalent to the reader 36.

Claim 61:

It is not clear whether Martucci records administration of the medical product to the patient when there is a match between the data obtained from the RFID tags and the data associated with the patient. However, it would have been obvious to one skilled in the art to incorporate the idea into the Martucci system because it would keep a record of the administering of the medical product to the particular patient for future purposes.

8. Claims 39-54 are rejected under 35 U.S.C. 103(a) as being anticipated by Bui et al. (US 2003/0141981) in view of Hickle et al. (US Patent No. 2002/0188259).

Claims 39:

Bui et al. discloses an apparatus for monitoring administration of medical products to a patient, each of the medical products comprising a RFID tag 124a for storing data related to the respective medical product, the apparatus comprising:

c. A reader 118 for reading RFID tags associated with a plurality of medical products placed in close proximity to the reader to obtain the data stored in the RFID tags;

d. A processor 118a coupled to the reader for processing data obtained from the RFID tags to identify the medical products.

The reference fails to disclose substantially simultaneously reading the RFID tags. However, this feature is well known in the art as taught in Hickle et al.. (See para. [0036]). In light of this teaching, it would have been obvious to a skilled artisan to readily recognized using a tag reader with ability to read multiple tags substantially simultaneously as in Hickle in the system of Martucci's because it would be advantageous and desirable to read several tags at the same time.

Claim 40:

A display 104c is coupled to the processor 118 (internment) and the processor controls the display 118a to display the identified medical products.

Claim 41:

Bui further discloses a network interface 126 coupled to the processor 118, and wherein the processor is configured for transmitting data obtained from the RFID tags using the network interface.

Claim 42:

Processor 118 is configured for receiving a notification via network interface, in response to the transmission, indicating whether to administer the identified medical products. See figures 3-8.

Claim 43:

A display 118a is coupled to the processor, and wherein the processor is configured for displaying the received notification 318 on the display.

Claim 44:

An output device, display 118a, is coupled to the processor, and wherein the processor activates the output device when the received notification indicates that the identified medical products should not be administered.

Claim 45:

The output device in Bui does not include least one of a light indicator and an audio indicator. However, one skilled in the art would have readily recognized that display 118a provides an equivalent function of a light indicator to indicate an alarm condition.

Claims 46-52:

The rejection of claims 46-52 recites the rejection of claims 39-45.

Claim 53:

It is not clear that the reader in Bui configured to read the RFID tags associated with the medical products when the medical products pass through an entrance to the patient's room. However, it would have been obvious to one skilled in the art to read the RFID whenever desirable because the result thereby would not be modified.

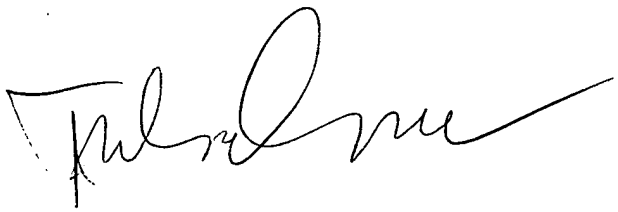
Claim 54:

In the combined system of Bui and Hickle, it would have been obvious to one skilled in the art to use a read pad to provide a surface for placing the medical products because the use of a read pad would allow the products to be read simultaneously more easily though not necessary.

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie Lieu whose telephone number is 571-272-2978. The examiner can normally be reached on Mon-Fri 9AM-6PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Julie Lieu
Primary Examiner
Art Unit 2636

Jun 15, 04